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*Published in:*  
European Journal of Social Security

*DOI:*  
[10.1177/1388262719844985](https://doi.org/10.1177/1388262719844985)

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*Document Version*  
Publisher's PDF, also known as Version of record

*Publication date:*  
2019

[Link to publication in University of Groningen/UMCG research database](#)

*Citation for published version (APA):*  
de Jong, F., & Vonk, G. (2019). Internal coordination of social security in the Netherlands. *European Journal of Social Security*, 21(2), 163-173. <https://doi.org/10.1177/1388262719844985>

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# Internal coordination of social security in the Netherlands

European Journal of Social Security

2019, Vol. 21(2) 163–173

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DOI: 10.1177/1388262719844985

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## Abstract

This article outlines the internal coordination of regional and local social security schemes in the Netherlands. The Netherlands is a decentralised state with a strong central government. Social security is largely a matter for central government. The article therefore focuses on the area of social assistance and social care, characterised by a system of ‘regulated decentralisation’. It outlines the state of decentralisation, the conflict rules and the coordination mechanisms and, finally, describes the financial regime of the decentralised schemes.

## Keywords

The Netherlands, social insurance, social assistance, health care, social care, decentralisation, internal coordination

## Devolution and decentralisation in Dutch social security: General remarks

### *State structure*

The Netherlands is a decentralised unitary state divided between a strong central government, provinces and municipalities.

The Constitution also recognises some other public bodies that exercise government power. In a separate category are the water authorities, which are traditionally powerful entities in the field of water management and are obviously needed in a country like the Netherlands. Other public bodies

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are so-called ‘bodies for professions and trades’ that exercise functional powers. An example of such a body is the SER (Social and Economic Council), a tripartite institution for government, employers and employees, with an advisory role in the area of national labour relations, including social security. Other public bodies that can be established and enjoy control over their own domestic affairs in a geographically defined territorial area. This option was used in 2010 for the overseas islands of Bonaire, St. Eustatius and Saba.

Since 2010, the Kingdom of the Netherlands has comprised four countries: the Netherlands, Aruba, Curacao and Sint Maarten.<sup>1</sup> The other islands of the former Dutch Antilles (the ‘BES islands’) became public bodies, whose status is roughly similar to that of Dutch municipalities. These Caribbean islands have been inherited from the Netherlands’ colonial past. The other colonies became independent states long ago.<sup>2</sup>

The State, the provinces and the municipalities are each responsible for their own housekeeping, at their own level, with associated competences.<sup>3</sup> This means that government authorities at lower levels can take on tasks that they consider necessary in the interests of the municipality or the province.<sup>4</sup> Higher levels of governance can take over or take back tasks from lower levels. Ultimately, it is the legislator who decides, while keeping the general public interest in mind, whether a specific task will be performed at a lower or higher level of governance. This state of division of powers is sometimes referred to as ‘Thorbecke’s house’ after its 19th century constitutional designer.

The municipalities enjoy limited financial autonomy. One sixth of their total budget comprises municipal taxes.<sup>5</sup> The rest comes from central state subsidies that are paid to the municipalities.<sup>6</sup> If municipalities overspend, they must bear the costs themselves, but if they end up with a surplus, they are free to spend this in whatever way they wish. In this way, municipalities are encouraged to allocate the funds they are given as economically as possible.

### *The division of competences in social security: The bigger picture*

How, broadly speaking, is this state structure reflected in the division of competences in Dutch social security? The answer is that social security is largely a matter for central government, but there are also nuances to be considered. To understand this, we must distinguish between social insurance, health care and social assistance and social care.

**Social insurance.** In the past, in national insurance the role of central government was shared with employer and employee organisations. However, the cooperative institutions of the past, such as labour councils (*Raden van Arbeid*), industrial associations (*Bedrijfsverenigingen*) and sickness insurance funds (*Ziekenfondsen*), either no longer exist or have been converted into independent administrative bodies under public law or privatised.

These public bodies are the UWV (Employee Insurance Agency) covering employee insurance schemes for sickness, unemployment and invalidity; and the SVB (Social Insurance Bank)

1. Art. 1 Statuut voor het Koninkrijk der Nederlanden.

2. Available at <[https://www.youtube.com/watch?v=eE\\_IUPInEuc](https://www.youtube.com/watch?v=eE_IUPInEuc)>.

3. Douwe Jan Elzinga and others (2006: 833).

4. SE Zijlstra, *Bestuurlijk organisatierecht* (Kluwer 2009) 237.

5. Available at <<http://kennisopenbaarbestuur.nl/thema/inkomsten-van-gemeenten>>.

6. Available at <https://www.rijksoverheid.nl/onderwerpen/financien-gemeenten-en-provincies/inhoud/gemeentefonds>

covering the national insurance schemes for old age, death and children. Because the UWV and SVB are somewhat distanced from the responsible minister, they are also referred to as independent administrative bodies. The institutions have a technocratic management structure appointed by the Minister of Social Affairs and Employment. They are central organisations with regional offices.

A different situation applies to the reintegration task regarding jobseekers with a disadvantage in the labour market. This is a task for the municipalities, but each municipality works in partnership with employers and employees in newly-established, regional operating employment agencies, the so-called *Werkbedrijven*. The *Werkbedrijven* are financed by the regional business community.

The situation is different for the supplementary pension system. The statutory old-age insurance scheme under the AOW (Old-Age Pension Act) provides a uniform minimum pension for all residents. The wage-related supplements to the AOW state pension are entirely in the hands of the employers and employees who have created a substantial second pillar in the pension system based on company and industrial-branch collective labour agreements. This second pillar is managed entirely by the social partners. The central government's task is limited to regulation (through the Pension Act) and supervision (through the *Nederlandse Bank*). Second pillar pensions also play a role in survivor and invalidity benefits.

From the above, it appears to be the case that the administrative structure of social insurance is functionally decentralised. The notion of territorial decentralisation does not really apply in the area of social insurance.

**Health care insurance.** Insurance for health care in the Netherlands is administered by private insurance companies. However, there is a strict legislative framework. It is better to speak of a hybrid form of regulated social security, rather than a real transfer of responsibility from government to the private sector.<sup>7</sup> There is also a private insurance market, but the activities of the players are strongly regulated and supervised by central government. Thus, for example, the activities of the private health care insurance companies are coordinated by a public body: the Dutch Healthcare Authority.

Overall, it can be concluded that the notion of territorial decentralisation is not applicable in the area of health care either.

**Social assistance and social care.** The situation is different for social assistance and social care. These are regulated in the *Participatiewet* (Pw) and the *Wet Maatschappelijke ondersteuning 2015* (Wmo 2015). The administration is in the hands of the municipalities in 'joint governance'.

On the basis of Article 124 of the Constitution, powers can be exercised 'autonomously' or 'in joint governance'. Autonomy can be exercised in areas pertaining to the 'housekeeping' of the municipality. This refers to 'tasks that are considered necessary in the interests of the municipality or the province'. This phrase is not specifically defined anywhere and consequently the concept can change in accordance with 'the spirit of the times'. Joint governance means that the lower levels of governance implement the policy that is made centrally. The State reimburses the cost of exercising competences in joint governance (Article 108 of the Municipalities Act and 105 of the Provinces Act). These competences include a clear description of the tasks and an objective.

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7. Vonk (2010).

While the Pw and the Wmo 2015 are national statutes, it is important to keep in mind that they allow substantive freedoms for the municipalities. In a recent reform, introduced in 2015, these freedoms have been further expanded. These reforms are referred to as 'decentralisations in the social domain'. Not only have the municipalities been given more tasks, but they also have more local freedom to formulate policies and to enact generally binding local regulations. The discretionary power in individual cases has also increased.

The latest decentralisations have been dominated by the transition from the traditional welfare state to a 'participation society'. This transition was mentioned in the first King's speech before Parliament made by King Willem Alexander in 2013. Generally speaking, the term is understood to refer to a community that relies more heavily on the individual's capacities and on the moral fibre of civil society. To achieve this, support should be directed more towards the individual's 'own strength' and real needs. This requires 'customisation'. The support should be designed in consultation with the citizen. This process is metaphorically (although sometimes also literally) referred to as 'kitchen table talks'. Adopting an 'integrated approach' is a priority here: 'one household, one plan and one case manager' is the motto. Such an approach should also make major economies possible. Indeed, the latest decentralisation round was accompanied by large budget cuts in the social domain. These are partly linked to the expansion of the scale of operations of local authorities, with the objective of cutting administrative costs by 20 per cent.<sup>8</sup> This is a remarkable ambition, given that the advantages of decentralisation are realised precisely because a municipality is closer to the citizen and is consequently in a better position to provide customisation. This contrasts with the larger scale of municipal service providers. Newly-established multi-disciplinary local neighborhood teams that are supposed to have direct contact with citizens must bridge this gap.

All in all, the area of social assistance and social care is characterised by a system of 'regulated decentralisation'. It is an intricate system that links centrally defined policy goals to differing degrees of local freedom, depending on the subject matter involved.<sup>9</sup> The financing of social expenditure is based on state subsidies to the municipalities, but the local authorities enjoy some choice as to how they spend these funds.

In light of this state of affairs, the remainder of this article will focus on the Pw (social assistance) and the Wmo 2015 (social care).

### *The special position of the Dutch Caribbean*

Within the Kingdom, Aruba, Curacao and Sint Maarten are now completely independent. There are no social security ties with these islands, not even regarding finance, although it is not unusual for the debts of these islands to be waived by the Netherlands in Europe. In contrast, the ties of the BES islands (Bonaire, St. Eustatius and Saba) with the Netherlands in Europe are much tighter. As mentioned, these small islands have acquired the status of public bodies, similar to Dutch municipalities. The responsibilities of the European government include assistance, poverty prevention and childcare. They are financed by free payments (in total approximately EUR 30 million, of which EUR 1.5 million is designated for social tasks). Agreements about policy priorities are made between the islands and central government. The aim is to gradually work towards the same system

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8. 'Rapport brede heroverwegingen, 18. Openbaar bestuur', April 2010.

9. Vonk (2016).

of social assistance currently operating in the European part of the Netherlands. This includes the duties that relate to receiving benefits, the corresponding inspections and the amount received. On the other hand, the level of benefits is substantially lower than in the Netherlands in Europe.<sup>10</sup>

## The state of decentralisation: social assistance and social care

### Legislative framework

The Participation Act (Pw) establishes the legal framework within which municipalities are supposed to carry out their social assistance tasks. Article 8 Pw stipulates that municipalities must make local regulations for social assistance on a specified number of subjects. Areas selected for policy freedom include, *inter alia*, re-integration and activation duties, individual income supplements and sanctions. With regard to sanctions, there is a strict legislative regime for reductions of benefit in case of failure to fulfil co-operation duties and for mandatory penalties in case of fraud, but some elements are reserved for local discretion, such as imposing sanctions in response to a failure to comply with a mandatory work activity. An example is the duty to organise unpaid mandatory work activities for social assistance recipients. It is not only up to the municipality to set up a programme for such activities, but also to determine the sanctions for those who refuse to co-operate. Municipalities are obligated to recover benefits in case of fraud, but otherwise the recovery of benefits is subject to local discretion.

Social care on grounds of the Wmo 2015 is intended for people with a disability, a chronic disease, the elderly, people with a psychosocial disorder, people who require shelter, shelter for women, and assisted living.<sup>11</sup> Under the Act, municipalities must develop a policy plan stipulating the spending priorities that are to be drawn up by the municipal council, in agreement with citizens and organisations. The rules governing the implementation of the policy plan must be further elaborated in a local regulation.<sup>12</sup> Local regulations should also determine the conditions for the granting of individual support and the level of co-payments.<sup>13</sup> For the rest, the Wmo 2015 contains open-ended objectives rather than specific duties for the municipalities. These are accompanied by a set of procedural rules for citizens, such as to how to submit a claim for support. The municipalities are, for example, free to choose between offering general care facilities for all, such as meal services, transport or activities in a community centre, or providing forms of tailor-made support for the individual, called a '*maatwerkvoorziening*'. As long as the residents are compensated for their impairment in one way or another so that they can lead a more or less normal life, this is permitted. The statutory obligation lies in the result, not in the method.<sup>14</sup>

### De facto differentiation

Local freedoms are not only part of legal theory but are also used in practice. Indeed, as a result of newly gained local powers, real policy differences have developed between some municipalities. Sometimes such differences are the result of conscious decisions and policies developed in the

10. Pommer and Bijl (2015).

11. Vilans, Infographic 'hervorming zorg en ondersteuning', d.d. 2014.

12. Art. 2.1.3 Wmo 2015.

13. Art. 2.1.4 Wmo 2015.

14. CWCA Bruggeman and others (2017) Gst. 65.

democratically elected councils. This may occur as a consequence of financial constraints or bureaucratic preferences.

Typical differences have come to light, for example, between the traditional cultural adversaries of Amsterdam and Rotterdam.<sup>15</sup> While the former has refused to roll out a mandatory work activity programme for social assistance recipients and has lenient policies in the area of work-related sanctions, the latter has developed an explicit policy based on work duties accompanied by tough sanctions. Such differences are an endless source of media attention, public debate and academic scrutiny.

The municipalities also have varying policies for co-payment for individual Wmo services. According to Article 2.1.4 Wmo 2015, municipalities can decide whether such payments are required for social care. The co-payments cannot be higher than the costs incurred for providing a specific service. However, different private service providers contracted by the municipalities charge different prices for similar services. Consequently, the co-payments also differ.<sup>16</sup>

Sometimes differences are procedural. Thus, some municipalities hold extensive 'kitchen table talks' with applicants to determine individual needs, while others try to avoid holding them at all.<sup>17</sup>

Other differences are driven by financial pressures. Thus, in 2014, the national newspaper, *De Volkskrant*, reported that Utrecht had cut 35 per cent of its budget on day care for people with brain damage, while in the region of Gooi, where municipalities are considerably richer, these expenditures were only cut by around 13 per cent. Before 2015 this type of care was paid for nationally.<sup>18</sup>

Finally, it is worth mentioning that the spirit of decentralisation has been realised with the latest reforms in the social domain, and that some municipalities go further in formulating their own policies in areas where they do not have any legislative freedom to do so. For example, some cities have actively flirted with the idea of unconditional social assistance, referred to as *regelarme bijstand*. The Pw does not offer a basis for such practice. Central government has responded to this by allowing these cities to go ahead with their ideas by means of a temporary experiment, the conditions for which are set by the Minister of Social Affairs and Employment. In this manner, potential conflicts in the House of Thorbecke are neutralised.

### *Formal and informal harmonising forces*

The tendency of local policy differentiation is counterbalanced by a number of forces. Below we will briefly discuss the role of supervision, the judiciary and the activities of the Association of Dutch Municipalities.

**Supervision.** Firstly, there is the Inspectorate that monitors the behaviour of municipalities on behalf of the Minister of Social Affairs and Employment. Municipalities that step out of line can be reported to the Minister, who has powers to correct unlawful conduct and impose central government's will on local government. The Pw provides its own rules on supervision. If there is evidence of serious failure regarding the legitimate performance of tasks, the Minister can issue an instruction for the performance to be adjusted. Failure to follow such an instruction can result in a reduction in the funds received from the Central Government. In addition to these types of supervisory mechanisms, special laws provide far-reaching authorisation to central government to place

15. Westerveld (2017) 1 TRA 16.

16. Tuzgöl-Broekhoven and others (2016: 18).

17. Tuzgöl-Broekhoven and others (2016: 19).

18. Huisman (2014).

a municipality which is not toeing the line, under administration. However, these types of mechanisms are not used in Dutch relationships. Municipalities are, however, placed under preventive financial administration with some regularity. The municipality must then have its budget approved beforehand by the province.

*The courts.* The courts, in particular the highest social security court, the Central Appeals Tribunal, sometimes repudiate local practices that are considered contrary to statutory duties. This can also have a harmonising effect. For example, after 2013, one third of the municipalities abolished their home care services under the Wmo 2015, arguing that such services are readily available in the private market. Instead, these municipalities offered exceptional social assistance payments for low-income families who could not afford to buy in-home care services privately. However, the Central Appeals tribunal ruled that home care services remained an integral part of the Wmo 2015 package. A municipality cannot simply refer the citizen to private providers. These providers must be actively contracted by the municipality and then offered to the clients, possibly subject to a co-payment.<sup>19</sup>

*Informal harmonisation through the Association of Dutch Municipalities.* The Association of Dutch Municipalities (VNG) represents all municipalities. One of its tasks is to provide municipalities with an exchange of knowledge and experience regarding the implementation of national and local policies.<sup>20</sup> For this purpose, the VNG makes *modelverordeningen*, model regulations, that can help municipalities with drafting their own versions. These model regulations have a strong harmonising effect, as they tend to be duplicated by some municipalities, particularly the smaller ones. The activities of VNG may also have a harmonising effect, as a result of comparing practices, exchanging information, etc.

## Conflict rules and co-ordination mechanisms in decentralised schemes

### *The internal division of competence*

*Social assistance on grounds of the Pw.* As in many other European countries, the internal division of competence in social assistance has a long and controversial history.<sup>21</sup> In the early 19th century, Dutch municipalities often required newcomers to submit proof that they had sufficient resources of their own, before allowing them to settle. Since this practice was considered too much of an obstacle to internal labour mobility, it was abolished in 1818 and replaced by a system under which poor relief was the responsibility of the municipality in which a person had resided for the last four years, or if no such place could be determined, the municipality where the person was born. If a municipality granted poor relief to outsiders, the costs could be recovered from the competent municipality. This system continued to exist until 1854, when the actual place of residence became responsible for paying and financing poor relief. This rule is referred to as the ‘domicile of assistance’ rule and it still applies today. Therefore, Article 40 Pw states that the right to social assistance exists in the municipality in which a person resides within the meaning of Articles 10 and 11 of the Civil Code. This is the place where the person has their homestead (*woonstede*), or in

19. CRvB 18 May 2016, ECLI: NL: CRVB:2016:1404

20. Available at <<https://vng.nl/de-vng-kerntaken>.

21. Vonk (1991).



the absence of such a homestead, the place where a person actually stays. This domicile requirement must be distinguished from Article 11 Pw, which requires a person to be resident in the Netherlands as a condition for social assistance. The latter requirement is written for the international division of competence.

It follows that Article 40 Pw contains a conflict rule based on local residence. Normally this will be the place where a person resides permanently, but residence can also be temporary, as long as a person is registered in that municipality or he or she has been given a postal address.<sup>22</sup> Homeless people who do not have an address and who are not registered can receive social assistance in specially appointed cities, the *Centrumgemeenten*, where they can request social assistance. These municipalities are given a government surplus on top of their block grant for this task. There are currently 43 of these *Centrumgemeenten*.<sup>23</sup>

*Social services on grounds of the Wmo 2015.* Rules governing the internal competence for social support can be found in the Wmo 2015. According to the Wmo, a municipality will decide on a request from a resident (*ingezetene*) of the municipality. The Wmo does not provide a definition of *ingezetene*. We assume that, in most cases, the meaning will be similar to the domicile in the Pw. Problems arise for homeless persons who do not have a permanent address and who apply for shelter. The Association of Dutch Municipalities (VNG) formulated a set of guidelines concerning access to social shelter and care.<sup>24</sup> These rules apply specifically to the *Centrumgemeenten*. These municipalities must ensure that everyone in need can apply for social shelter and care. After an application for shelter, the municipality must examine which municipality or region is most suitable for the applicant to be sheltered in. This is, before anything else, the municipality in which the conditions for successful care are best for the client or the municipality with which the client seems most connected with. In fact, the VNG guidelines introduce a local connection test. In the Netherlands this is called a *regionale bindingseis*.

The VNG rules provide a list of conditions to ascertain where the client can receive the best social shelter and care. The municipality must review, *inter alia*, the following facts and conditions: whether the client has a positive social network (friends and family); conditions that may enhance the chances of success, such as active counselling with debt problems; whether the client has had his or her main place of residence in this region for two out of the last three years; and, as a contra-indication, whether the client has shown aggressive behaviour towards staff members which can be a reason to remove a client from his or her old social network. The VNG stipulates that an investigation of the local connection of a person should last no longer than two weeks.<sup>25</sup>

According to the VNG guidelines, municipalities must provide temporary shelter pending their inquiries into the local connection of a person. However, in 2012, it turned out that the VNG guidelines did not work out the way they were supposed to. When researchers dressed up as homeless people, they were denied shelter by municipalities on almost every occasion for failing to meet the implicit local connection test. FEANTSA, the European Federation of National Organisations working with the Homeless, filed a complaint, which the ECSR deemed well-grounded.<sup>26</sup>

22. HWM Nacovic, Module Bijstand, Artikel 40 WWB, aant. 1.5>.

23. Article 11 Besluit Pw.

24. Handreiking VNG landelijke toegankelijkheid in de maatschappelijke opvang, versie December 2014.

25. Handreiking VNG landelijke toegankelijkheid in de maatschappelijke opvang, versie December 2014.

26. ECSR 10 November 2014, Complaint No. 86/2012 (*FEANTSA v the Netherlands*).

Therefore, the Wmo 2015 now states that municipalities must assist anyone who requests shelter, including non-local residents. However, non-Dutch citizens can only receive individual provisions if they reside legally in the Netherlands (Article 1.2.2 Wmo 2015).<sup>27</sup> Thus far, no investigation has been conducted to establish whether the local practices are now more in line with the law.

In short, the competence rules for the Wmo 2015 do not deviate from those of the Pw. An exception, which does not really follow from the Wmo 2015lf, but rather from administrative practice, applies to vulnerable people in need of shelter and support. An additional investigation into one's local connection follows a request for shelter.

### *Adjudication of internal conflicts about competence*

When there is a conflict between municipalities about an applicant's domicile, it is the Crown who decides. This derives from Article 136 of the Constitution and implicitly from Article 42 Pw. The Council of State (*Raad van State*) will draw up its advice, which is normally followed up by the Crown formally. The Crown formally decides on the conflict, but in reality, the decision is taken by the Council of State. During the process, the municipality where the applicant actually resides is responsible for providing social assistance.<sup>28</sup> We refer below to the four most recent (published) cases based on Article 136 of the Constitution, all of which deal with a domicile conflict concerning the Pw.<sup>29</sup> There is no such procedure for the Wmo 2015. Here the Association of Dutch Municipalities works with an internal arbitration committee.

The first of these four decisions arose from a conflict between the municipalities of Amersfoort and Arnhem. Amersfoort terminated a recipient's social assistance, because that person took up residence in Arnhem, officially registered at that address and appeared in the registers of the municipality in Arnhem. The applicant paid rent in Arnhem but could not afford to furnish the accommodation and therefore stayed temporarily at her mother's place in Nijmegen. She requested general social assistance and a special allowance to furnish the residence. According to the Dutch Civil Code, she was no longer domiciled in Amersfoort. The Crown decided that the day she registered in Arnhem, her domicile moved from Amersfoort to Arnhem. The fact that she temporarily stayed at her mother's place did not change that. Arnhem also had to provide the allowance for furnishing the accommodation.<sup>30</sup>

In 2007, two municipalities were in conflict over which one had to consider a request for additional assistance for those who only had a minimum income for a longer period. According to the law at that time, the municipality of the domicile of the applicant had to decide on the request. At the reference date, the applicant lived in one municipality, but on the date of the request, he had already moved to another municipality. The Crown decided that the municipality in which the applicant lived on the date of reference had to decide on the request.<sup>31</sup>

The third case concerned two applicants whose request for social assistance led to a conflict between the municipalities at a campsite in Druten. The applicants registered at an address in Beuningen without actually staying there. The Crown decided that the applicants did not have their residence in Beuningen. Yet, it cannot be said that they moved their residence to Druten either,

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27. For further information: Klosse and Vonk (2018).

28. HWM Nacovic, Module Bijstand, Artikel 40 WWB, aant. 1.5.

29. W van der Woude (2018), available at < [www.Nederlandrechtsstaat.nl](http://www.Nederlandrechtsstaat.nl) >

30. KB 5 September 2005, case no. 05.003163, JWVB 2005/446, ECLI: NL: XX:2005: AU5587.

31. KB 25 April 2007, case no. 07.001371, JWVB 2007/390, ECLI: NL: XX:2007: BC0212.

since it was only an emergency solution and apparently only temporary. The Crown concluded that, since the applicants had no residence, their actual place of residence must be considered their domicile. Therefore, the Crown referred them to the municipality of Druten. Druten wanted the applicants to make the request in Nijmegen, since that is a *Centrumgemeente* and the applicants had no address in Druten. The Crown disagreed, since a factual place of residence could be found.<sup>32</sup>

The most recent case concerned an applicant who was receiving clinical treatment in Utrecht. Prior to this, he stayed at his parents' place in IJsselstein, where he registered and where he received social assistance. Although the treatment could take a while, his stay in Utrecht was of a temporary nature. The applicant made it clear that he wanted to return to IJsselstein. The Crown came to the conclusion that the applicant did not show any intention of moving his domicile to Utrecht. Therefore, IJsselstein was still responsible for the social assistance.<sup>33</sup> That is, because Article 11(1) of the Dutch Civil Code states that someone loses his domicile through actions that display a will to lose that domicile. The intention shows when a person registers in another municipality.

### The financial regime of the decentralised schemes

Municipalities are themselves responsible for financing social assistance, but they cannot raise taxes for this purpose. Instead, they receive budgets from central government that are funded from general revenues. First, there is a separate block grant for paying out benefits and services. A municipality may spend a surplus on the budget freely, but in principle must also compensate for a deficit on the budget itself. This system works as an incentive to integrate social assistance recipients into the labour market and to take responsibility for their spending behaviour in general. Secondly, municipalities receive a block grant for integration that includes the funds for the financing of reintegration services of social assistance recipients, youth care, social support and sheltered employment. The intention is to integrate this second block grant into the general state subsidy paid into municipal funds, but the block grant for integration is already freely available for the municipality for other municipal tasks. The money can therefore be used for purposes other than integration activities, if the municipality so wishes.

Under Article 76, paragraph 3 of the Participation Act, the amount of these block grants is based on a complex allocation formula. An arithmetic formula, based on various social, economic and demographic indicators related to the level of municipal expenditure is used. Municipalities with less than 15,000 inhabitants are historically budgeted. This means that the budget that is calculated is based on past expenses, taking into account any growth or decrease in the number of households in the intervening period. A mixed model applies to medium-sized municipalities (15,000 to 40,000 inhabitants). In addition to the part calculated in this way, all municipalities receive extra funds for homeless people and refugees.

The municipalities must report to the Minister of Social Affairs and Employment on the legality of the spending of the funds they receive from central government. If the budget has not been spent fully or has been spent unlawfully, the Minister must reclaim the relevant amount. If there are serious shortcomings regarding the lawful implementation of the Participation Act, the Minister may give a municipality an instruction to adjust the implementation (Article 76, paragraph 3 of the Participation Act). Failure to follow the instructions may result in a reduction of the block grant.

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32. KB 5 September 2005, case no. 05.003162, JWVB 2005,445, ECLI: NL: XX:2005: AU5586.

33. KB 31 August 2004, case no. 04.003238, JWVB 2005,353, ECLI: NL: XX:2004: AU1015.

The decentralised regime is accompanied by a multitude of accountability and supervisory powers, a phenomenon which is sometimes referred to as a 'decentralisation paradox': more decentralised powers give rise to more supervision. This will only change when the municipalities gain the power to raise local social taxes themselves. This is often proposed by the Association of Municipalities, and even by the Council of State as the official advisory body for the legislator, but there are no signs that the government actually wants to introduce any form of local fiscal autonomy.

The latter observation closes the circle that was started at the beginning of the article: the Netherlands is a decentralised unitary state divided between a strong central government, provinces and municipalities.

### Declaration of conflicting interests

The authors declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

### Funding

The authors received no financial support for the research, authorship, and/or publication of this article.

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